

# Digital Content Next

Legal and Legislative Committee  
July 12, 2016

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## Agenda

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- Review of the FAA's Proposed Rule for Unmanned Aerial Vehicles (UAVs or drones)
- Announcement of Webinar re Privacy Shield
- Announcement of Webinar re OTA Annual Trust Audit

## Commercial Small UAS Rule (Part 107) – Overview

- NPRM announced in February 2015 with final rule due September 2015.
- Final rule released June 21, 2016.
- Rule will go into effect on August 29, 2016.
- Key components:
  - Maximum weight: 55 pounds.
  - Maximum altitude: 400 feet above ground level (though may operate up to 400 feet above a structure).
  - Maximum speed: 100 mph/87 knots.
  - Minimum age: 16.
  - Operations only permitted during daytime, within visual line of sight, and only over those people involved in the operation.
  - Designated waiver provisions allow for operations in additional circumstances (ie, from a moving vehicle, visual observer operations of multiple UAS).
  - Intrastate transportation of property for compensation or hire permitted.
  - Certified pilots will take an online training course; others will take an aeronautical knowledge test at a designated FAA testing center.

## Commercial Small UAS Rule (Part 107) – Privacy

- FAA's mission is safety – not privacy. FAA rulemaking authority neither mandates nor permits promulgation or enforcement of privacy interests.
- NPRM acknowledged privacy concerns related to UAS integration. 180 comments raised concerns about privacy, but demonstrated lack of consensus about potential risks, how they should be addressed, and the FAA's role.
- Privacy concerns generally related to technology and equipment (ie, cameras) that do not jeopardize safety.
- Congress did not direct FAA to include privacy in the scope of its UAS Comprehensive Plan.
  - EPIC sued FAA in March 2015 for failing to address privacy in NPRM, arguing privacy part of “comprehensive plan”; DC Circuit Court of Appeals dismissed suit in May 2016 on grounds that EPIC missed deadline to file petition for review and mounted premature challenge given rule not yet final.
- FAA participated in NTIA multistakeholder process.
  - NTIA has updated voluntary best practices document to include background information and reaction – no changes to consensus best practices agreed to on May 18, 2016.

## Commercial Small UAS Rule (Part 107) – First Amendment

- NPRM proposed restrictions in the interest of safety that were deemed by some to be incidental burdens on First Amendment (ie, no flights over people, at night, or beyond the visual line of sight).
- FAA: UAS flight is not speech – it is conduct other than speech which may incidentally restrict speech; rule consistent with First Amendment.
- Rule regulates activity in a nonpublic forum (National Airspace System) and therefore receives lowest level of First Amendment scrutiny.
- Rule is viewpoint neutral.
- Rule only regulates flight of small UAS – use of cameras, other recording technologies not directly regulated by Part 107.

### US-EU Privacy Shield released today

- Companies can apply for certifications beginning on August 1

DCN Webinar re Privacy Shield

Friday, July 15

11 AM PST / 2 PM EST

Invitations to be sent to the DCN Legal and  
Legislative Committee

### Online Trust Alliance (OTA)

- 501(c)3
- Mission: “to enhance online trust and empower users, while promoting innovation and the vitality of the Internet.”
- Annual audit of 1,000 consumer-facing sites
  - Domain, brand and consumer protection
  - Site, server and infrastructure security
  - Data protection, privacy and transparency
- This year, we asked OTA to look specifically on DCN member sites
  - Results only to be shared internally
  - Identified common problems, areas for improvement

Webinar with Craig Spiezle  
CEO, OTA

Thursday, July 21  
11 AM PST / 2 PM EST

Invitations to be sent to the DCN Legal and Legislative  
Committee and CTOs

Email [chris@digitalcontentnext.org](mailto:chris@digitalcontentnext.org) for more information